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OFFICE OF PETITIONS

In re Application of :
Chia Pao Cheng :
Application No. 10/625,660 : **ON PETITION**
Filed: July 24, 2003 :
Attorney Docket No. FP9653 :

This is a decision on the petition filed February 1, 2005, which is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment of the above-identified application. This is also in response to the petition under 37 CFR 1.137(b) filed June 6, 2005.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 12, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 13, 2004.

ANALYSIS OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner alleges that he did not receive the May 12, 2004 non-final Office action.

A review of the file record discloses that the address to which the Office action of May 12, 2004 was mailed is the address designated in the declaration filed with the application. Since all correspondence is mailed solely to the address designated by an applicant, no error is seen on the part of the USPTO in the mailing of the Office action of May 12, 2004. Further, there is no indication that the Office action was returned to the USPTO as undeliverable. Therefore, absent evidence to the contrary, it is presumed that the Office action was correctly delivered to the address of record at the time of its mailing.

Additionally, petitioner has not established nonreceipt, since petitioner did not include a statement from applicant (to whom the Office action of May 12, 2004 was mailed) in accordance with the guidelines set out in MPEP 711.03(c)), Section A. Petitioner is reminded that this application

was filed without a power of attorney. At the time of mailing the Office action, counsel had not been given any authority by the applicant, or any other party, with respect to this application.

In view of the above, the holding of abandonment will not be withdrawn.

ANALYSIS OF PETITION UNDER 37 CFR 1.137(b)

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of May 12, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3738.

A handwritten signature in cursive script that reads "Frances Hicks".

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy